

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

I. DISPOSITION OF THE CLAIMS

Claims 24-26 are requested to be cancelled.

Claims 7, 12, 15, and 23 are currently being amended. No new matter has been added. Claims 7, 12, and 15 are amended to correct informalities. Claim 23 is amended to include the limitations of claims 24-25.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-23 are now pending in this application.

II. INFORMATION DISCLOSURE STATEMENT

The Office referred to a “listing of references in the specification” not constituting a proper Information Disclosure Statement (IDS). Office Action, page 2, paragraph 1.

Applicants request clarification of the Office’s comments.

Applicants could find no list of references in the present specification. The specification, at page 1, line 18, cites a single reference, FR 2 440 188. The reference FR 2 440 188 was cited in an IDS, and the examiner initialed the corresponding entry as considered (see reference B12 in the second SB/08 form attached to the present Office Action).

All references cited via IDS have been indicated as considered, as shown in the two SB/08 forms attached to the present Office Action. The examiner lined through the reference US 2003/0042639 listed as A1 in the first SB/08 form attached to the present Office Action, however the examiner initialed as considered the identical reference as listed as B1 in the second SB/08 form attached to the present Office Action (the two listings of the identical reference differ in the named inventor, but clearly refer to the same reference).

Accordingly, Applicants submit that no issue exists regarding references not submitted in a proper IDS.

III. OBJECTIONS TO DRAWINGS, ABSTRACT, DISCLOSURE, AND CLAIMS

The Office objected to the disclosure and claims on various grounds. Applicants have obviated these objections by amendment as explained below.

A. Drawings

The Office objected to the drawings on various grounds. Applicants have filed replacement drawings to address the objections.

B. Abstract

The Office objected to the Abstract due to the presence of legal terminology. Applicants have amended the Abstract to remove legal terminology.

C. Disclosure

The Office objected to the disclosure failure to include various headings. Applicants have amended the specification to introduce appropriate headings.

D. Claims

The Office objected to claim 7, 12, and 15 for informalities relating to the presence of a typographical error in claim 7 and the presence of the word “it” in claims 12 and 15.

Applicants have appropriately amended these claims according to the interpretation stated in the Office Action.

IV. ANTICIPATION

Claim 23 stands rejected under 35 U.S.C. § 102(b) as anticipated by US 4,576,619 (“Manning”).

This ground of rejection has been obviated by amendment. Claim 23 has been amended to include the limitations of claims 24-25, i.e., “wherein the temperature of the gas is controlled at a predetermined location upstream of the enclosure, in order to ensure that the temperature of the gas in the enclosure reaches a predetermined value”.

The Office Action included no rejection of claims 24-25 for anticipation, and recognized that Manning fails to satisfy the predetermined upstream location limitation (Office Action, page 7, lines 4-6 from bottom).

Accordingly, this ground of rejection should be withdrawn.

V. OBVIOUSNESS

Claims 1, 3, 5-16, 19-21, and 24-26 stand rejected as obvious over Manning and DE 2363921 (“Korsch”).

The Office recognizes that the claims differ from Manning in that Manning fails to disclose “said means being arranged so as to control the temperature of the gas at a predetermined location upstream of the enclosure in order to ensure that the temperature of the gas in the enclosure reaches a predetermined value” (see Office Action, page 7).

The Office applies Korsch to satisfy these missing limitations. Notably, the Office considers that Korsch satisfies the “upstream of the enclosure” limitation (Office Action, page 8, line 6 from bottom, to page 9, line 2):

Korsch teaches, in claim 4 and figures 3 and 4, a thermally insulated cabin with an internal humidity sensor (66) linked to

an air conditioning device (50) which is set to a predetermined value for the purpose of reducing operation fluctuations by better controlling operation conditions. It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the housing taught by Manning with the sensor and the air conditioning device taught by Korsch for the purpose of reducing operation fluctuations by better controlling operation conditions.

Applicants submit that the Office has misinterpreted the disclosure in Korsch. Korsch does not satisfy the missing limitation “said means being arranged so as to control the temperature of the gas at a predetermined location upstream of the enclosure in order to ensure that the temperature of the gas in the enclosure reaches a predetermined value”.

The air conditioning device (50) in Korsch is located upstream of the cabin. But the means for controlling the temperature of the gas are located within the cabin, not upstream of the cabin.

The Written Opinion (attached hereto as Annex) in the PCT International Preliminary Report on Patentability (IPRP) for this application's underlying international application PCT/FR2004/001764 confirms Applicants interpretation of Korsch. The Written Opinion is dated October 21, 2005. Applicants filed on January 6, 2006, a translation of an undated IPRP (listed in the PAIR Image File Wrapper as “Documents submitted with 371 Application”) containing an essentially identical description (see page 3, box 2) of Korsch.

The Written Opinion states that Korsch controls temperature inside the chamber, but Korsch does not disclose controlling the temperature of the gas upstream of the chamber (emphases in original; IPRP dated October 21, 2005, page 4):

D1, which is considered to be the state of the art closest to the subject of claims 1 and 21, describes (see page 7 line 12 and page 10 line 12 - the references in brackets apply to this document):

An installation that includes a machine for the production of tablets, where the machine has at least one enclosure (12), and where the installation further included resources (49-66) to inject a gas into the enclosure (12) and distribute it throughout the enclosure (12), with the said resources (49-66) being

arranged to control temperature of a gas at a predetermined location (64 to 66) in order to ensure that the temperature of the gas in the enclosure (12) reaches a predetermined value.

The associated process for the manufacture of tablets also performs this control of temperature within the enclosure.

As a consequence, the subject of claims 1 and 21 differs from this installation, and from the associated known manufacturing process, in that the resources are arranged to control the temperature of the gas upstream of the enclosure.

The IPRP refers to elements 64, 65, 66 of Korsch's Figure 3, which Korsch discloses are probes for measuring temperature, pressure, and humidity (Korsch, page 10, lines 5-7). Thus, Korsch could not satisfy the missing feature in Manning.

Independent claims 1 and 21 both have a limitation requiring upstream gas temperature control ("to control the temperature of the gas at a predetermined location upstream of the enclosure" in claim 1, and "temperature of the gas is controlled at a predetermined location upstream of the enclosure" in claim 21). Accordingly, claims 1 and 21 would not have been obvious over Manning and Korsch.

If an independent claim is nonobvious, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). The above reasoning establishes nonobviousness of independent claims 1 and 21. The dependent claims are thus necessarily nonobviousness as well.

CONCLUSION

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 2-FEB-2009

By Rouget F. Henschel

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 295-4059
Facsimile: (202) 672-5399

Rouget F. Henschel
Attorney for Applicant
Registration No. 39,221

ANNEX